

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1850

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AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 31-30-1-1, AS AMENDED BY P.L.217-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A juvenile court has exclusive original jurisdiction, except as provided in sections 9, 10, 12, and 13 of this chapter, in the following:

- (1) Proceedings in which a child, including a child of divorced parents, is alleged to be a delinquent child under IC 31-37.
- (2) Proceedings in which a child, including a child of divorced parents, is alleged to be a child in need of services under IC 31-34.
- (3) Proceedings concerning the paternity of a child under IC 31-14.
- (4) Proceedings under the interstate compact on juveniles under IC 31-37-23.
- (5) Proceedings governing the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for a child under IC 31-34-16 or IC 31-37-15.
- (6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and IC 31-37-6 governing the detention of a child before a petition has been filed.
- (7) Proceedings to issue a protective order under IC 31-32-13.

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(8) Proceedings in which a child less than sixteen (16) years of age is alleged to have committed an act that would be a misdemeanor traffic offense if committed by an adult.

(9) Proceedings in which a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult.

(10) Guardianship of the person proceedings for a child:

(A) who has been adjudicated as a child in need of services;

(B) for whom a juvenile court has approved a permanency plan under IC 31-34-21-7 that provides for the appointment of a guardian of the person; and

(C) who is the subject of a pending child in need of services proceeding under IC 31-34.

**(11) Proceedings concerning involuntary drug and alcohol treatment under IC 31-32-16.**

**(12) Other proceedings specified by law.**

SECTION 2. IC 31-32-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 16. Involuntary Drug and Alcohol Treatment**

**Sec. 1. A proceeding under this chapter is separate from and does not affect:**

**(1) a proceeding for involuntary treatment under IC 12-26; or**

**(2) an order from a juvenile court under IC 31-37 that requires drug or alcohol treatment.**

**Sec. 2. (a) A parent, guardian, or custodian of a child may file a verified petition with the juvenile court in the county in which the child resides for involuntary drug and alcohol treatment if the child:**

**(1) is incapable of consenting; or**

**(2) refuses to consent;**

**to voluntary treatment.**

**(b) The verified petition must include an affidavit from a person described in section 4(a) of this chapter who has examined or treated the child not more than thirty (30) days before the filing of the verified petition. The affidavit must state that reasonable grounds exist to believe the child named in the petition is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1).**

**(c) Involuntary drug and alcohol treatment under this chapter may include appropriate placement in an inpatient or outpatient program or facility. A person ordered to complete inpatient drug and alcohol treatment under this chapter may not be placed in a**

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facility that is owned or operated by the state.

(d) The judge of the juvenile court in which the verified petition is filed shall inform each parent, guardian, or custodian of the child that the parent, guardian, or custodian may be ordered to participate in any aspect of the child's treatment.

Sec. 3. A verified petition filed under section 2 of this chapter must include the name and age of the child and a summary of facts that support the petitioner's request for involuntary drug and alcohol treatment.

Sec. 4. (a) The juvenile court, after making an ex parte determination that there is probable cause to believe the child is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1), shall order the child named in the petition to undergo a drug and alcohol assessment. The assessment shall be performed by:

- (1) a psychiatrist (as defined in IC 11-10-3-1);
- (2) a physician (as defined in IC 12-15-35-12); or
- (3) a psychologist with training in drug and alcohol assessment and treatment.

The person who performs the assessment under this section must be different from the person who submitted the affidavit under section 2 of this chapter. If it is determined that involuntary treatment is necessary, the assessment must include a recommended level of care and length of treatment.

(b) After completion of the assessment, the juvenile court shall conduct a hearing. Each person who performed an assessment must be present and available to testify at the hearing.

Sec. 5. Following a hearing, the juvenile court may order involuntary drug and alcohol treatment for not more than forty-five (45) consecutive days if the court finds by clear and convincing evidence that the child:

- (1) is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1);
- (2) is incapable of consenting to or refuses to consent to voluntary treatment services; and
- (3) will benefit from a period of involuntary drug and alcohol treatment.

Sec. 6. (a) Before the expiration of a period of involuntary treatment, the juvenile court shall conduct a review hearing to determine whether further treatment is necessary.

(b) The juvenile court may order an additional term of treatment if it finds at the initial review hearing by clear and convincing evidence that the conditions enumerated in section 5 of this chapter are present and further treatment is necessary. An

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additional term of involuntary treatment may not exceed forty-five (45) consecutive days, and the juvenile court must conduct a review hearing before the expiration of the additional term. The court may order subsequent terms of involuntary treatment if at each review hearing the court makes findings required by this section.

(c) Each order for an additional term of treatment under subsection (b) must be supported by written findings of fact. The juvenile court shall issue written findings of fact not more than ten (10) days after the review hearing that orders an additional term of involuntary treatment.

Sec. 7. The juvenile court may order each parent, guardian, or custodian of the child to participate in any aspect of the child's treatment under section 5 or 6 of this chapter.

Sec. 8. The juvenile court may modify the original terms of involuntary drug and alcohol treatment if it finds by clear and convincing evidence that a substantial change in the circumstances that supported the original terms and conditions of treatment has occurred.

Sec. 9. A parent, guardian, or custodian is required to pay court costs, court fees, and the costs of assessment and treatment. Neither the court nor the county is liable for any part of the costs of assessment or treatment under this chapter.

Sec. 10. Notwithstanding IC 34-46-3 and IC 25-33-1-17, the judge may order a physician or a psychologist to submit a drug and alcohol assessment to the juvenile court in a proceeding under this chapter.

Sec. 11. The judge of the juvenile court may appoint a guardian ad litem for the child at any time.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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